

NEW HAMPSHIRE REAL ESTATE COMMISSION

COMMISSION MEETING

MARCH 16, 2004

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, March 16, 2004 at 8:30 a.m. in Room 425, State House Annex, 25 Capitol Street, Concord, New Hampshire 03301.

Meeting called to order at 8:30 a.m. by Chairman Arthur Slattery

Present: Commissioners Arthur Slattery, Robert Stephen, Pauline Ikawa, Barbara Heath, Nancy LeRoy, Executive Director Beth Emmons, and Investigator Ann Flanagan.

- I. Motion by Commissioner Ikawa, seconded by Commissioner Heath, to approve and accept the minutes of the Commission meeting held on February 17, 2004.

APPOINTMENTS

8:30 a.m. - Equivalency Interviews

The following candidates were interviewed by Commissioners Slattery, Stephen, Ikawa, Heath, and LeRoy.

CANDIDATE

DETERMINATION

ROBERT LISK

DENIED

On motion by Commissioner LeRoy, seconded by Commissioner Ikawa, the Commission unanimously denied Mr. Lisk's experience as equivalent experience.

BARRY MAZZAGLIA

APPROVED

On motion by Commissioner Stephen, seconded by Commissioner LeRoy, the Commission approved the equivalent experience of Mr. Mazzaglia. Commissioner Ikawa was opposed to the decision.

ANN FLANAGAN

APPROVED

On motion by Commissioner Stephen, seconded by Commissioner Heath, the Commission approved Ms. Flanagan's equivalency request based on the abundance of knowledge she has as the Commission's Investigator. Commissioner Ikawa abstained from the decision. The Commission stated that Ms. Flanagan's broker license, once obtained, shall be maintained in an inactive status, as long as she is an employee of the Real Estate Commission.

9:05 a.m. LISA RIPALDI DAVIDSON appeared before the Commission to discuss the decision of the Commission at its February 17, 2004 meeting to withdraw the course accreditation for Dearborn Continuing Education Distance Learning courses offered via correspondence booklets. Ms. Davidson presented to the Commission a copy of the various Dearborn continuing education

correspondence courses that are currently approved through ARELLO. Most of the correspondence courses which have been accredited for correspondence by the Commission are ARELLO approved courses. ARELLO has approved the courses for 4 credit hours. The Commission, at its February meeting, had decided to withdraw the accreditation based on the fact that the Commission's Education Program Assistant received information which was later found to be incorrect from the Dearborn Education Company that their courses were not designed to be used as correspondence courses. Some of the courses were timed by the Education Program Assistant and took just under 3 hours to complete. After review and discussion, based on corrected information received from Dearborn, and on the ARELLO approval of these courses, the Commission decided that all courses which have been ARELLO approved for distance education by correspondence booklet shall remain accredited and other courses which are not ARELLO approved will be evaluated by the Commission individually. In addition, the Commission decided to adopt a requirement that the courses offered through distance education have a disclaimer or certification which the licensee would sign, stating that they were in fact the person who completed the course and examination.

Lisa Ripaldi Davidson requested a clarification as to whether a licensee can take the same elective in 2 consecutive renewal periods. The Commission stated that there is currently no statute or administrative rule which prohibit a licensee from taking the same course in 2 or more consecutive renewal periods.

9:20 a.m. - KELLY ANN MASTROMARINO appeared before the Commission to explain a "yes" answer to question #8 on her application for a salesperson's license. After review and discussion, and on a motion by Commissioner LeRoy, seconded by Commissioner Heath, the Commission unanimously approved Ms. Mastromarino's application for a salesperson's license, based on the fact that there has been no prior record of acts of violence, and upon the receipt of a letter from her principal broker informing the Commission that he/she is aware of Ms. Mastromarino's prior conviction.

9:30 a.m. - ROBERT GAGNON appeared before the Commission to explain a "yes" answer to question #8 on his application for a salesperson's license. After review and discussion, and on motion by Commissioner Heath, seconded by Commissioner LeRoy, the Commission approved Mr. Gagnon's application for a salesperson's license, based on the fact that he has no other convictions and that drugs are not an issue in his life, and on his principal broker's testimony of good character of Mr. Gagnon. Commissioner Stephen and Commissioner Ikawa voted in opposition to the decision, based on the fact that Mr. Gagnon has not been released from probation to date.

II. OTHER BUSINESS

1. Tuesday, April 20, 2004, was unanimously approved as the date for the next regular meeting.

2. CASE EVALUATIONS

(a) **FILE NO. 2003-08-02**

Evaluator: Commissioner Ikawa

Determination: Should be heard, hearing to be scheduled.

3. SETTLEMENT AGREEMENT

The following Settlement Agreement was approved by the Commission and becomes part of the official Minutes of this meeting.

FILE NO. 2003-05-07 WARREN JACKSON VS LINDA STILES

4. VACATE ORDER

The following Vacate of Order was approved by the Commission and becomes part of the official Minutes of this meeting.

FILE NO. 2003-05-03 JOHN R. ROBERGE VS NH REAL ESTATE COMMISSION

III. **HEARING 9:46 AM**

FILE NO 2003-02-01 PAUL AND CINDY TAYLOR VS AARON BROWN (ATRIO PROPERTIES)

Evaluator: Commissioner LeRoy

The following persons were present at the hearing:

Commission: Commissioners Robert Stephen, Arthur Slattery, Pauline Ikawa, Barbara Heath, Executive Director Beth Emmons, and Investigator Ann Flanagan

Evaluator: Commission LeRoy evaluated the above matter and abstained from participation in the discussion and resulting decision.

Complainants: Paul & Cindy Taylor

36 Nathaniel Drive
Portsmouth, NH 03801

Attorney: James P. Nadeau

Nadeau Professional Offices
507 State Street
Portsmouth, NH 03801

Witnesses: Eileen M. Page, MGA

Respondent: Aaron Brown

Atrio Properties, LLC
725 Portsmouth Avenue
Greenland, NH 03848-2228

Attorney: Peter J. Saari

Casassa and Ryan
Attorneys At Law
459 Lafayette Road
Hampton, NH 03842-2242

Witnesses: Todd Strout

Decision: Pending – subject to review of transcripts and exhibits.

IV. **HEARING 12:11 PM**

**FILE NO 2003-06-02 KATHLEEN & HALTON GRINDLE VS CYNTHIA MICHIE
(DIVERSIFIELD REALTY)**

Evaluator: Nancy LeRoy

The following persons were present at the hearing:

Commission: Commissioners Arthur Slattery, Robert Stephen, Pauline Ikawa, Barbara Heath,
Executive Director Beth Emmons, and Investigator Ann Flanagan

Complainants: Kathleen & Halton Grindle

89 Ledge Drive
Plainfield, NH 03781

Attorney: Pro Se

Witnesses: None

Respondent: Cynthia Michie

Diversified Realty
130 Johnson Hill Road
P.O. Box 237
Bradford, NH 03221

Attorney: Pro Se

Witnesses: None

The following witness was called by the Commission to appear:

Paul Messer

Decision – The Respondent requested a postponement of the hearing due to her medical condition. The hearing is scheduled to be continued at the May 18, 2004 Commission meeting.

VI. ADJOURNMENT

Motion by Commissioner Ikawa, seconded by Commissioner Stephen to adjourn the meeting. Chairman Slattery adjourned the meeting at 2:05 p.m.

Respectfully submitted,

Pauline A. Ikawa

Pauline A. Ikawa
Acting Clerk

BEFORE THE
NEW HAMPSHIRE REAL ESTATE COMMISSION
CONCORD NH 03301

In the Matter of:

File No. 2003-05-07 Warren Jackson v. Linda Stiles
Allegations: Rea 702

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of real estate, the New Hampshire Real Estate Commission ("Commission") and Linda Stiles ("the Licensee" or "the Respondent"), a real estate associate broker currently licensed by the Commission until November 26, 2004, agree to resolve certain allegations of professional misconduct now pending before the Commission in accordance with the following terms and conditions:

1. The parties stipulate that the Commission has jurisdiction to institute a disciplinary proceeding against the Respondent pursuant to RSA 331-A:29, I and RSA 541-A:31, V, and if such a proceeding were commenced, the allegations against the Respondent would be:

Respondent acknowledges that she neglected to immediately deliver three (3) escrow checks to her managing or principal broker due to oversight due to personal issues. The funds were belatedly deposited and made available for closing, and fortunately no harm resulted from Respondent's error.

2. The Respondent acknowledges and does not contest the allegations described in Paragraph 1 above.

3. The Respondent consents to the Commission imposing the following discipline, pursuant to RSA 331-A:28, I. The Respondent shall pay a disciplinary fine in the amount of Three Hundred Dollars (\$300.00) to the New Hampshire Real Estate Commission made payable to the Treasurer, State of New Hampshire within sixty (60) days of the effective date of this Agreement.
4. The Respondent's failure to adhere to any requirement imposed by this Agreement shall be a separate and sufficient ground for disciplinary action by the Commission.
5. Except as provided in Item 3 and 4 above, this Agreement shall forever bar further disciplinary action or other adverse action by the Commission based upon the specific allegations described above in Paragraph 1, provided, however, that this Agreement may be considered by the Commission in determining whether the Respondent has engaged in a pattern of misconduct, or in determining the nature of any sanctions which may be imposed in any subsequent disciplinary proceeding arising out of different misconduct allegations.
6. The Respondent voluntarily signs this Settlement Agreement and states that no promises or representations have been made to her other than those terms and conditions expressly stated herein.
7. Respondent understands that her action in entering into this agreement is a final act and not subject to reconsideration or judicial review or appeal.
8. Respondent has had the opportunity to seek and obtain the advice of an attorney of her choosing in connection with her decision to enter into this Agreement.
9. Respondent understands that the Commission must review and accept the terms of this Agreement. If the Commission rejects any portion, the entire Agreement shall be

null and void. Respondent specifically waives any claims that any disclosures made to the Commission during its review of this Agreement have prejudiced her right to a fair and impartial hearing in the future if this Agreement is not accepted by the Commission.

10. Respondent certifies that she has read this document titled Settlement Agreement.

Respondent understands that she has the right to a formal adjudicatory hearing concerning this matter and that at said hearing she would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on her own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this Agreement, she waives these rights as they pertain to the misconduct described herein.

11. The effective date of this Agreement shall be on the date it is signed by the representative of the Commission shown below.

For the Respondent


I, Linda Stiles, have reviewed the forgoing Settlement Agreement settling misconduct allegations pending against me, and, of my own free will and without duress, and being knowledgeable about all of the consequences, admit to the validity thereof, and agree to all of the terms of this Settlement Agreement. Further, I knowingly and freely waive my right to further notice, opportunity for hearing, substantial evidence, and findings and

conclusions with regard to the allegations, which have been settled by the terms of this
Settlement Agreement.

Dated: 2/13, 2004 Linda Stiles
Linda Stiles
Respondent

On this 13 day of Feb A.D. 2004
personally appeared the person who subscribe to the following instrument and acknowledged the
same as his/her voluntary act and deed before me.

[Signature]
Justice of the Peace / Notary Public
My commission expires.



For the Commission

Dated: March 16, 2004 Beth A. Emmons
Beth A. Emmons
Executive Director
of the NH Real Estate Commission

**STATE OF NEW HAMPSHIRE
REAL ESTATE COMMISSION**

**JOHN R. ROBERGE
VS
NEW HAMPSHIRE REAL ESTATE COMMISSION**

FILE NO. 2003-05-03

VACATE ORDER

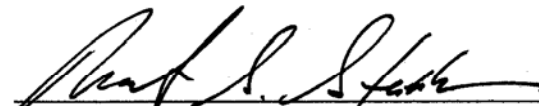
The New Hampshire Real Estate Commission reconsidered their decision in the above named case at their meeting on February 17, 2004.

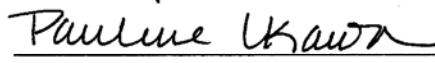
At that time, the Commission, present and voting, unanimously decided to vacate the Order issued for File No. 2003-05-03, based on the withdrawal of the Appeal of this Order in Merrimack Superior, Docket No. 03-E-0409 by the Appellant John R. Roberge.

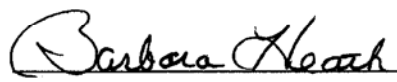
The Commission unanimously decided to allow John Roberge a re-hearing on the matter above before the Commission.

A re-hearing will be scheduled at future date.

Commissioners Slattery and LeRoy were not present at the February 17, 2004 meeting and did not take part in this decision.


Robert Stephen, Acting Chairman


Pauline Ikawa, Commissioner


Barbara Heath, Commissioner